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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

FLETCHER, MARLON T

ART UNIT PAPER NUMBER

2837

DATE MAILED: 11/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/885,652

Applicant(s)

SHAHAL, ELIHAI

Examiner

Marlon T Fletcher

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5. 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 and 36 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: the means or element for learning. The claim merely recites lessons, a passage and a period of silence.

There is no recitation of how one is learning and the elements needed for learning. The lessons alone do not make up the system for learning playing of a musical instrument.

3. Claims 23 and 45 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: for learning to play a musical instrument. The claim merely recites playing a passage and a predefined time to play the passage. There is no recitation of how one is learning playing of a musical instrument. There is a gap between the claimed method and a method of learning playing of a musical instrument.

4. Claims 36 and 45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 4-9, 11, 18, 19-27, 29-33, 36, 44, and 45, rejected under 35

U.S.C. 102(b) as being anticipated by Renard et al. (6,066,791).

Renard et al. disclose a system for learning playing of a musical instrument without a teacher, the system comprising: a series of lessons stored in a computer program (column 6, lines 43-50); each lesson being programmed to include: automatic dynamic playing of at least one learning passage by a computer; and a period of silence of a predefined length relative to said learning passage, for playing of said learning passage by a student on a musical instrument (column 8, lines 20-38). Renard et al. disclose the system, wherein each lesson includes: dynamic playing of a series of learning passages by a computer; and periods of silence of a predefined length relative-to said learning passage after playing of each learning passage for playing of that learning passage by said student (column 6, lines 43-58 and column 8, lines 20-38). Renard et al. disclose the system, wherein each learning passage includes a series of tones via audio device (18) arranged in a pre-selected order (column 4, lines 60-65). Renard et al. disclose the system, further comprising a database of tones, from which said tones are accessed and played, one at a time, during said dynamic playing (column 10, lines 55-65). Renard et al. disclose a database of graphic

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musical elements for representing said series of tones graphically as a series of notes

on a screen as seen in figure 9. Renard et al. disclose a graphic illustration of finger

positions ^{via (30)} ~~(41)~~ ^{3:28-38} on an instrument corresponding to dynamic playing of said series of tones

in said learning passage (figure 7). Renard et al. disclose the system, further

comprising: a composition portion including, means for activating, by means of a

button, at least one composition command to compose a song (figure 9). Renard et al.

disclose the system, wherein said computer includes means for automatically

representing graphically on a screen a result of said composition command (figure 9).

Renard et al. disclose the system, wherein said composed song is stored in said

computer and can be played by the computer in said playing portion and by said student

during said period of silence (column 8, lines 39-50). Renard et al. disclose the system,

wherein said musical instrument is independent of said computer (figure 1). Renard et

al. disclose the system, further comprising a display of at least one of the following

parameters in a practice screen: number of bars in said learning passage; tempo of

said dynamic playing, length of said break portion; automatic or manual play; chord

play;

melody play; and means for selectively changing at least one of said parameters by the

student (Figures 4 and 9). Renard et al. disclose the system further comprising a

display of at least one of the following options in a practice screen: a demo of a

complete song formed of a plurality of said learning passages; a practice mode selector

for dividing a song into at least two learning passages of pre-selected length for

automatic dynamic playing by said computer; and return to start (column 9, lines 39-50).

Renard et al. disclose the system, wherein said learning passage includes a series of graphic notes and associated audio tones, each note being stored in the computer as a data string (figure 9). Renard et al. disclose the system, wherein said data string further includes chord data (figure 9).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2, 3, 10, 12-17, 28, 34, 35, 37-43, and 46-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Renard et al. in view of Eller (6,201,174).

Renard et al. are discussed above. Renard et al. further disclose the system, wherein said means for activating composition commands includes: a display of seven basic notes; and a display of at least two note lengths (figure 9). Renard et al. disclose the system according, wherein said selection means is selected from the group including a mouse, a touch screen, and a computer keyboard (figure 1). Renard et al. do not disclose a plurality of parameters.

However, Eller discloses a system, wherein each lesson includes a plurality of parameters, and said system includes i-neans for selectively changing each of said parameters by the student (column 5, line 52 through column 6, line 14; and column 7, lines 40-46). Eller disclose the system, wherein said at least one composition command

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includes a name of a tone, and said computer includes means for inserting a note representing said tone in a correct location on a staff (column 8, lines 16-35). Eller discloses selection means for selecting a basic note and a note length for adding to a song; and means in said computer for automatically displaying said selected basic note of selected note length in a correct location on a displayed staff (column 7, lines 40-45 and column 8, lines 16-35). Eller disclose a method comprising: providing seven buttons (inherent) on a computer display, each button representing a different basic note; providing means for selecting at least one of said buttons by said student; and causing said computer to display the note represented by said selected button on a staff, so as to compose a song (figures 7A and 7B), wherein it well known to provide the buttons for corresponding to the notes.

Official Notice is taken with respect to it being well known in the art to provide a system comprising a help field for displaying one of a current beat number in a bar of a song being composed; or an instruction to insert a bar line and further providing a help field for displaying error messages in calculating number of beats.


It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the teachings of Eller and that which is well known in the art with the apparatus and methods of Renard et al., because the teachings enhance Renard et al. by further providing additional means for further enhancing the learning of the user operating the apparatus.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marlon T Fletcher whose telephone number is 703-308-0848. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi can be reached on 703-308-3370. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.


Marlon T Fletcher
Primary Examiner
Art Unit 2837

MTF
November 4, 2002